The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, MARCH 27, 1998, TO FILE 2 PRIVILEGED REPORTS ON BILLS MAKING SUPPLEMENTAL APPROPRIATIONS AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Friday, March 27, 1998 to file two privileged reports on bills, one making emergency supplemental appropriations for fiscal year 1998 and the other making supplemental appropriations for fiscal year 1998.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXI, all points of order are reserved on the bills.

FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT OF 1998

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 393 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3246.

☐ 1817

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers, with Mr. MCCOLLUM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. FAWELL), the subcommittee chairman who studies carefully and knows what it is he says.

(Mr. FAWELL asked and was given permission to revise and extend his remarks.)

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, H.R. 3246, the Fairness for Small Business and Employees Act is a pro-employee, pro-employer, pro-labor organization bill that is also good for the economy and good for the American taxpayers.

Having introduced last session three of the four bills which comprise the four titles of this legislation, I would like to focus my time on two titles. Title I is a targeted provision intended to help employers who are being damaged and even run out of business due to abusive union ''salting'' tactics. Title IV is a provision allowing small employers and small labor organizations who prevail against the NLRB unfair labor practice complaint to recover their attorney fees and costs.

Title I says simply that someone must be a ''bona fide'' employee applicant before the employer has an obligation to hire them under the National Labor Relations Act. Mr. Chairman, a ''bona fide'' applicant is defined as someone who is not primarily motivated to seek employment to further other employment or other agency status. What this means in layman's terms is that someone who is at least half-motivated to work for the employer is not impacted by this legislation at all.

Now, significantly, and I want to make this clear, the test of whether a job applicant is a ''bona fide applicant'' under Title I is a decision that will, in the first instance, be made by the general counsel of the NLRB. This legislation seeks only to prevent the clear-cut abusive situations in which union agents or employees openly seek a job as a ''salter'' with nonunion businesses.

Mr. Chairman, if people will listen to this one point: A ''salter'' is described in the Organizing Manual of the International Brotherhood of Electrical Workers as an employee who is expected, now get this, and I quote,

> To threaten or actually apply economic pressure necessary to cause the employer to raise his prices to recoup additional costs, scale back his business activities, leave the union's jurisdiction, go out of business.

Now, that is an exact quote in the manual of the International Brotherhood of Electrical Worker's definition of what a salter can be. How is that for a bona fide applicant?

A final point on Title I. This legislation does not overturn, does not overturn the Supreme Court's decision in 1995 in Town & Country. That decision held very narrowly that the definition of an employee under the NLRA can include paid union agents. Title I does not change this, nor the definition of an employee, nor the definition of an employee applicant under the NLRA. They obviously can still be involved in customary efforts to organize a nonunion shop. It simply would make clear that someone must be at least 50 percent motivated to work for the employer to be taken seriously as a job applicant.

Title IV of the Fairness for Small Business and Employees Act is what we call a ''loser pays'' concept, applied against the NLRB when it loses complaints it brings against the very small companies or small labor organizations, those who have no more than 100 employees and a net worth of no more than $1.4 million.

Title IV is a reasonable provision which ensures that taxpayer dollars are spent wisely and effectively. It tells the Board that after it reviews the facts of a case, that before it issues a complaint and starts the serious machinery against the ''little guy,'' whether union or business, that it should be very careful to make sure it has a reasonable case. If the NLRB does move forward against these small entities of modest means and loses the case, then it simply must reimburse the small business or labor organization, the winner's legal expenses.

Title IV is a winner for the small company and the small union who do not have the resources to mount an adequate defense against a well-funded, well-armed National Labor Relations Board who pays, by the way, from the taxes all of the expenses of the complainant, whether it is the union or an employer.

This bill ensures that the little guy has some sort of an incentive to fight a case and ensures that they will not be forced into bankruptcy to defend themselves, as countless employers have been. H.R. 3246 is a narrowly crafted, targeted bill attempting to correct four specific problems at the NLRB. It is benign, and it is fair, and I urge my colleagues to be serious and look at the real facts of this issue.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. SAWYER).

(Mr. SAWYER asked and was given permission to revise and extend his remarks.)

Mr. SAWYER. Mr. Chairman, I rise in opposition to the bill.

This country was founded on democratic principles; on majority rule that protects the rights of the minority. Yet for 150 years, we failed to have democracy in the workplace.

In 1935, the passage of the National Labor Relations Act for the first time ensured that workers, unions, and employers were given a forum for resolving labor practice disputes.

Not every worker will join a union, or even has the desire to do so, but democracy in the workplace means that workers can make that choice. The bill before us today would take away that basic worker right to choose whether to join a union.

This legislation is being portrayed as necessary to modernize this law. I agree that given the fundamental changes in the labor market since the 1930's this law may be ripe for reform. But we must not undermine the principles of democracy that it took so long for workers to get.

In its 1994 report, the Dunlop Commission recommended a number of changes that